

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Streamlining Deployment of Small Cell	)	WT Docket No. 16-421
Infrastructure by Improving Wireless Facilities	)	
Siting Policies	)	

**COMMENTS OF THE CITY OF EVANSVILLE, INDIANA**

The following comments are filed by the City of Evansville, Indiana (the “City”) in response to the public notice released by the Federal Communications Commission (the “FCC”) on December 22, 2016, in the above-captioned proceeding:

1. Evansville is a second class city of the State of Indiana with a population of approximately 120,000 citizens. Evansville is Indiana’s third largest city and serves as the commercial/retail/financial center for over 300,000 individuals in its metropolitan area.

2. The City opposes Mobilitie, LLC’s Petition for Declaratory Ruling in the above-captioned proceeding.

3. While the City’s governing bodies are progressive in nature and are supportive of providing its citizens with the latest telecommunication and cellular technologies and innovations, the City’s primary responsibility is to protect the health, safety and welfare of its citizens.

4. In order to ensure orderly growth and development and with the primary purpose of protecting the health, safety and welfare of all of its citizens, the City has developed and implemented certain processes and procedures with respect to the placement of utility facilities within the City’s public rights of way.

5. Over time, the City’s processes and procedures have evolved due, in part, to the explosion in the number of requests from utilities for placement of utility facilities within the public right of way.

6. Currently, the processes and procedures developed and implemented by the City with respect to the placement of facilities within the public right of way are as follows:

- A utility is required to submit a short written application requesting permission to place utility facilities within the public right-of-way

- The applicant must verify that it is an entity registered with the Indiana Utility Regulatory Commission to ensure that the applicant is, in fact, providing public utility services.
- The applicant must provide drawings (for example, Google Earth aerials) detailing the proposed route and appurtenance locations within the right-of-way to permit the City to determine whether there are any ADA or Clear Zone issues.
- The applicant must submit a construction encroachment street permit application for consideration by the Board of Public Works. The Board of Public Works meets weekly.
- The applicant must stake or otherwise identify the location of the proposed facilities to be installed within the City public right-of-way.
- The applicant or its contractor must participate in a walk through with an inspector from the City Engineer's office to ensure that the proposed location of the facilities will not pose a conflict to any present or future public infrastructure project and that the facilities are placed with consideration to the City's residents.
- Following completion of installation of the facilities, the work is inspected to ensure compliance of the approved plans and the City's construction standards. The applicant must correct any defects or deficiencies.

(collectively, the "Processes and Procedures").

7. The local boards with the primary responsibility for oversight over utility facilities are the Board of Public Works and the Area Plan Commission Site Review Committee. Both the Board of Public Works and the Site Review Committee meet weekly so as to ensure timely consideration of any application submitted by any utility.

8. The Processes and Procedures are uniformly applied and enforced against all utility providers which seek to install facilities within the public right of way.

9. The Processes and Procedures are not unduly burdensome or time consuming when balanced against the City's obligation to protect the health, safety and welfare of its residents.

10. The City submits that local municipalities have the primary responsibility to protect its residents and the local community at large from illogical siting of utility facilities as well as the obligation to ensure that its rights-of-way are utilized in such a manner so as to not interfere with the public's use of the right-of-way and the use of such right-of-way by all other utility providers. Limiting or eliminating local control over the use of its public right-of-way could lead to conflicts between utilities and misuse of public rights-of-way.

11. Moreover, the City must have the authority to ensure that a utility does not damage the public right-of-way or, if such damage is done, to require the utility to repair the damage at its expense as opposed to further burdening the City and its taxpayers with additional cost to repair damage caused by a utility.

12. In comments submitted by Crown Castle International Corp (“Crown Castle”) on March 8, 2017, at the top of page 17, Crown Castle states as follows:

“Although Crown Castle successfully deployed a dozen small cell nodes and a fiber optic backbone in Evansville in 2015, a competitor’s proposal caused the City to revise its procedures and prohibit installation of new poles in the right-of-way, significantly delaying a planned 2016 expansion of Crown Castle’s network.”

13. Crown Castle’s comments are, at best, disingenuous and, at worst, misleading.

14. While the City of Evansville admits that its Processes and Procedures are evolving, the City denies that any delays experienced by Crown Castle resulted from any acts or omissions of the City or its boards of commissions; rather, any delays experienced by Crown Castle primarily resulted from acts or omissions of Crown Castle or its contractors. For example, Evansville’s City Engineer specifically notes that in one instance Crown Castle’s facilities were placed within the pavement section in several locations and that during the construction process, Crown Castle’s contractor deviated from the approved plan in that in lieu of using concrete communication manholes called for by the approved plans, Crown Castle installed the wrong type of fiberglass vaults in the pavement creating a safety concern for motorists. In addition, at least five castings were set too high above the pavement. The City Engineer’s office also received a number of complaints on inadequate maintenance of traffic during the construction and the state of construction during off hours. Photographs evidencing these problems are attached as Exhibit A. Without local control, Crown Castle (or its contractor) may not have been required to correct these deficiencies thereby adversely impacting the City and its residents.

15. In another instance, the Vanderburgh County Surveyor (Evansville is the county seat of Vanderburgh County) advises that Crown Castle or its contractors proceeded to construct or install facilities within the right-of-way without any approvals from the City or undertaking even the most basic research to determine whether the facilities were being installed within rights-of-way or drainage ditches. In that circumstance, the County Surveyor met with Crown Castle’s engineers on site when Crown Castle was boring underneath a road and pre-drilling a proposed pole site and noted that Crown Castle had put a hole through a 6’ x 8’ concrete drainage structure (See Exhibit B for a photo). When questioned, Crown Castle or its contractors would not admit that they were responsible for the damage, even though Crown Castle’s contractors and crew were on site at the time. Crown Castle’s unwillingness to assume responsibility forced the County Surveyor and the City Engineer’s offices to contact every other local utility to determine who was responsible for the damage. Later, the County Surveyor determined, when inspecting the site, that the site had been marked with stakes with Crown Castle’s marking (see Exhibit C) and concluded that the work was, in fact, performed by Crown

Castle or its contractors. Crown Castle's actions led to a delay in Crown Castle receiving further permits from the Drainage Board because the Drainage Board until Crown Castle hired an inspection firm to inspect the 6' x 8' drainage pipe to ensure that there was no damage to the pipe from their activities. It is important to note that it appears that Crown Castle admitted fault for this problem and brought new personnel to the City which allowed both Crown Castle and the City to work diligently to move Crown Castle's request through the system.

14. The City vehemently denies that its actions alone caused any delay to Crown Castle. Rather, it was Crown Castle or its contractors' failure to admit wrong doing and to take corrective action which resulted in any delays experienced by Crown Castle.

15. For all of the foregoing reasons, the City respectfully requests that the FCC determine that the City has a valid interest in regulating the use of its public rights-of-way and that the FCC continue to recognize the importance of local control and oversight over proposed siting and construction of cellular infrastructure.

Respectfully submitted,  
CITY OF EVANSVILLE, INDIANA

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Blumberg No. 5137  
Exhibit A













Blumberg No. 5137  
Exhibit B

TH - Crown

Blumberg No. 5137

Exhibit C